IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.21/1998

1. Government of Goa,
through Chief Secretary,
Secretariat, Panaji, Goa 403 001

2. The Dy. Conservator of Forests,
South Goa Division,
Margao, Goa 403 601. ..... Appellants.

V/s.

Shri Benedito D'Souza,
s/o. Augustin D'Souza,
residing at Bhimsa,
Cuncolim, Salcete, Goa. ..... Respondent.

Mr. H.R. Bharne, Govt. Advocate for the appellants.

Mr. Sudin M.S. Usgaonkar, Advocate for the respondents.

CORAM : F.I. REBELLO, J.

DATE : JULY 11, 2003.

ORAL JUDGMENT:

In a suit filed by the present appellants, a preliminary objection was raised on behalf of the defendants that the suit is barred by limitation considering Section 14(3) of the Goa Land Revenue Code. That objection found in favour of the trial Court, which dismissed the suit by its Judgment and Order dated 16.1.1995. It is that order which is in appeal.

2. At the hearing, on behalf of the appellants, learned Counsel relies on an unreported Judgment of a learned Single Judge of this Court in the

case of Shivram Deo Malik and ors. vs. Union of India and another decided on 25th March, 1983 in Civil Revision Application No.161/B of 1981. The learned Single Judge while considering the language of Section 14(3) of the Goa Land Revenue Code, namely 'any person' held that it would not apply to Union of India/State of Goa and accordingly, on the facts of that case dismissed the revision preferred by the petitioners therein. It is, therefore, submitted that considering the Judgment of this court the appeal should be allowed.

On the other hand, on behalf of the respondent, learned Counsel relies on another Judgment in the case of Union of India vs. Suresh Jayantilal Thabawala and ors., 2000(2) All MR 261. In that case what was under consideration before the learned Single Judge were the provisions of the Maharashtra Land Revenue Code. It is pointed out that the language of the Section in the Maharashtra Land Revenue Code is identical and considering that, the view taken in Union of India Vs. Suresh Jayantilal Thabawala an ors. (supra) should be followed.

3. The Judgment in the case of Shivram Deo Malik (supra), is under the Provisions of the Goa Land Revenue Code, 1968. The Judgment in Union of India

(supra) is under the Maharashtra Land Revenue Code. Once a learned Single Judge of this Court has taken a view under the provisions of the Goa Land Revenue code, that Judgment would be binding in so far as Goa Land Revenue Code is concerned even if a different view in respect of identical issue is taken by another Judge under the Maharashtra Land Revenue Code. Considering that, the impugned order is set aside. The appeal is allowed. The suit is remanded to the trial Court for hearing on other issues.

F.I. REBELLO, J.

ssm.